



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

PLANNING COMMISSION

*Promoting the wise use of land
Helping build great communities*

MEETING DATE December 10, 2015	CONTACT/PHONE Megan Martin, (805)781-4163 mamartin@co.slo.ca.us	APPLICANT Paul Vanderheyden	FILE NO. LRP2010-00006
SUBJECT A request by Paul Vanderheyden for a General Plan Amendment to the San Luis Obispo North Sub Area of the San Luis Obispo Area Plan of the Land Use Element to change the land use category on a 21.5 acre site from Agriculture to Residential Rural. The project is located approximately 500 feet east of the eastern terminus of Tiburon Way, on the east side of Orcutt Road, located on the eastern boundary of the City of San Luis Obispo, in the San Luis Obispo North Sub Area of the San Luis Obispo planning area.			
RECOMMENDED ACTION Recommend to the Board of Supervisors: Approval of this General Plan Amendment as shown in the attached Exhibits LRP2010-00006 B and C based on the recommended findings contained in this report.			
ENVIRONMENTAL DETERMINATION The Environmental Coordinator, after completion of the Initial Study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on October 22, 2015 for this project. Mitigation measures are proposed to address biological resources, geology and soils, public services/utilities, recreation, transportation/circulation, and land use.			
LAND USE CATEGORY Agriculture	COMBINING DESIGNATION Airport Review Area, Sensitive Resource Area	ASSESSOR PARCEL NUMBER 076-531-009	SUPERVISOR DISTRICT(S) 3
PLANNING AREA STANDARDS: Section 22.96.050.E.1.b (San Luis Obispo Planning Area; Land Use Category Standards; Residential Rural Standards)			
EXISTING USES: Single family residence; Accessory residential uses			
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Rural Lands / Single family residences <i>East:</i> Agriculture / Vacant, grazing <i>South:</i> Rural Residential / Single family residences <i>West:</i> Residential Suburban / Single family residences			
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242			

OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Agricultural Commissioner, Air Pollution Control District, General Services (San Luis Obispo Airport), City of San Luis Obispo, Airport Land Use Commission.	
TOPOGRAPHY: Nearly level	VEGETATION: Grasses, ornamental, oak trees
PROPOSED SERVICES: Water supply: Community system – Afuerro de Chorro Sewage Disposal: Individual on-site system Fire Protection: CAL FIRE	ACCEPTANCE DATE: N/A

DISCUSSION

The project site is an approximately 21.5 acre parcel currently within the Agriculture land use category just east of the City of San Luis Obispo Urban Reserve Line. The property is developed with a single family residence, garage and workshop, swimming pool, and ornamental landscaping. The property owner, Paul Vanderheyden, is requesting to change the land use category of the site from Agriculture to Residential Rural in order to subdivide the property into two residential parcels for the development of two primary single family residences and two secondary residences.

The amendment request was originally submitted in January 2011 at a time when Planning staff was processing the Land Use and Circulation Element Update (LUCE). Applicants for individual general plan amendments (GPA) have the option to be included in the processing of a LUCE Update to save costs. However, since the portion of the LUCE update dealing with substantive land use change had been delayed at that time, the applicant opted to pursue the amendment request independent of the LUCE.

If the proposed GPA is approved, the applicant intends to subdivide the property into two parcels. Currently, the 21.5 acre Agriculture site allows two primary residences and two guesthouses. The San Luis Obispo Area Plan standards limit the minimum parcel size to 10 acres (Section 22.108.040(D)) in the Residential Rural (RR) land use category. Therefore, the proposed amendment would allow the owner to submit an application to subdivide the property into two parcels, which would allow one primary residence and one secondary residence on each parcel, yielding the comparable density as is currently allowed on the site.

PROJECT HISTORY

On July 9, 2013, the Board of Supervisors authorized the processing of the applicant's request to amend the San Luis Obispo Area Plan by changing the land use category on an approximately 21.5 acre site from Agriculture to Residential Rural; and change the Agriculture Element land use designation from Agriculture to Small Lot Rural for the purpose of subdivision of the property into two parcels.

AUTHORITY

The Land Use Element sets forth the authority by which the General Plan can be amended. The following factors should be considered by the Commission and the Board in making their decision, pursuant to the Land Use Element:

- a. **Necessity.** Relationship to other existing Land Use Element policies, including the guidelines for land use category amendments, to determine if those policies make the proposed amendment unnecessary or inappropriate.

- b. **Timing.** Whether the proposed change is unnecessary or premature in relation to the inventory of similarly designated land, the amount and nature of similar requests, and the timing of projected growth.
- c. **Vicinity.** Relationship of the site to the surrounding area to determine if the area of the proposed change should be expanded or reduced in order to consider surrounding physical conditions. These may include resource availability, environmental constraints, and carrying capacity for the area in the evaluation.
- d. **Cumulative effects of the request.** Individual property owner requests for changes are evaluated in view of existing build-out, current population and resource capacity conditions, and other important information developed as part of the update process.

MAJOR QUESTIONS

The proposed General Plan amendment raises the following major questions:

- 1. Is the request consistent with applicable Land Use Element policies relating to the purpose and character statements for the requested Rural Residential land use category?
- 2. Would this be an appropriate conversion of agricultural land? Will allowing residential uses in this area create land use conflicts with area agricultural uses and facilitate additional agricultural conversion in the immediate vicinity?
- 3. Is there a need to designate more land in the Residential Rural category in this area?

GENERAL PLAN CONSIDERATIONS AND CONSISTENCY

Guidelines for Land Use Category Amendments

In determining whether to approve a proposed land use category amendment, the Planning Commission and Board of Supervisors may consider, but shall not be limited to, the criteria listed in Exhibit C. These criteria include consistency with existing goals and policies in the General Plan, consistency with the applicable purpose and character statements, compatibility with the character of the general area, convenient access to a road system in the area that is adequate to accommodate the traffic generated, and in an area with demonstrated availability of needed public services and facilities, protection of prime agricultural soils, and if the change is needed to provide a sufficient supply of land for the population of the community or area.

Purpose and Character Statements

Each land use category is defined in the Framework for Planning, a component of the General Plan, using purpose and character statements. These statements are to be used as criteria for evaluating whether a General Plan amendment is appropriate for a specific site. The statements identify suitable features or conditions for the location, extent and timing of designating a land use category.

Residential Rural

The purpose statements for the Residential Rural (RR) land use category include the following:

- a) To provide for residential density at a low density compatible with a rural character and lifestyle that maintains the character of the open countryside and is compatible with surrounding agricultural uses.

- b) To allow limited, compatible non-residential uses commensurate with rural parcel sizes.
- c) To emphasize residential uses in areas where agriculture is clearly a secondary use, or where agriculture is not feasible yet large open areas are maintained as a part of a residential lifestyle.
- d) To encourage agricultural and other open space uses as part time or incidental “hobby” activities, such as horse raising or specialty farming..

Character of Areas Designated as Residential Rural

- a) Areas of existing small-acreage parcels no more than three miles from urban reserve lines that are not commercially viable for agriculture, where the average parcel size within any contiguous area is below 19 acres.
- b) Areas that are outside of urban and village areas and connected to them by county-maintained roads, although exceptions may be observed for existing older subdivided areas.
- c) Areas with slopes generally less than 30%.
- d) Areas with marginal agricultural soils.
- e) Areas with a rural landscape high in visual quality (for example, woodlands, hills, rock formations, existing agriculture and ag accessory buildings) where clustering of allowed densities to less sensitive portions of a site is encouraged to be required through planning area standards.
- f) Areas generally free of fragile natural resources.
- g) Areas where growth will not be premature with respect to utility and public service capacities, or in conflict with agricultural, commercial, or industrial uses. Light agricultural uses are to be encouraged.
- h) Areas where horses and other similar farm animals are allowed accessory to residential uses.
- i) Areas where public services demands are limited, septic tanks and individual wells can suffice for required water and sewer capability.

Staff Response: The site generally meets the purpose and character statements relating to providing for low density development compatible with the rural character, particularly where agriculture is a secondary use or is not feasible. Based on water availability limitations and a corresponding deed restriction on agricultural uses, the site is suited to low density rural residential development and not commercially viable for agriculture. The site could be used for light agricultural uses; however, for lands designated Agriculture within the area extending more than one (1) mile around the property, the ability to maintain typical agricultural operations is limited to grazing due to the limited underlying water resources in this area.

Although the proposal is not expanding an existing Residential Rural land use category, the project site is located directly south of an existing Residential Rural area and is separated from this land use category by only one single-family residential lot within the City of San Luis Obispo.

Combining Designations

Airport Review Area. The project site is within the Airport Review Area for the San Luis Obispo County Airport. According to the Airport Land Use Plan (ALUP), the site has a designation of Aviation Safety Area S-2, which limits residential density to six dwelling units per acre and a maximum building coverage of 20 percent of the gross land area. The development allowance on the subject site is far below these restrictions and therefore appears to be consistent with the ALUP.

The General Plan Amendment, as required by ordinance, will be considered at a regular meeting held by the Airport Land Use Commission (ALUC) on December 16, 2015.

Sensitive Resource Area. The northwest corner of the project site is within a Sensitive Resource Area (SRA) Combining Designation. The SRA designation line extends along the 600-foot elevation line, and is intended to protect hillside visual resources. Siting and design of future structures could avoid this portion of the site altogether, or would need to be constructed in accordance with the requirements of the SRA.

General Goals of the Land Use Element

Some applicable general goals of the Land Use Element include the following:

Environment

- Balance the capacity for growth allowed by the Land Use Element with the sustained availability of resources.

Distribution of Land Uses

- Maintain a distinction between urban and rural development by providing for rural uses outside of urban and village areas which are predominately agriculture, low-intensity recreation, residential, and open space uses, which will preserve and enhance the pattern of identifiable communities.
- Identify important agricultural, natural, and other rural areas between cities and communities, and work with landowners to maintain their rural character.

Staff Response: Changing the land use category from Agriculture to Residential Rural is consistent with the general goals of the general plan. The goals promote the protection of agricultural land while identifying a need to maintain a distinction between urban and rural development. Although the proposed conversion from Agriculture to Residential Rural will reduce the amount of agricultural land to a non-agricultural use; the agricultural potential of the site is limited by water availability.

Agriculture Element Policies

The Agriculture Department reviewed the proposed project for consistency with the agricultural policies in the Agriculture Element and potential impacts to agricultural resources. The Agriculture Department reviewed and commented on the project's consistency with Agriculture Policy (AGP) 11, AGP 17, and AGP 24 as follows:

AGP11: Agricultural Water Supplies – Although water availability is limited due to legal restrictions on the use of water, the Ag Department was concerned about the impact of non-agricultural water use on agricultural users within the watershed and/or groundwater basin. This entire drainage area, which ultimately becomes Davenport Creek, is considered a limited water resource area but continues to include hundreds of acres of productive agricultural lands. To the degree continued upstream development decreases recharge

throughout the basin, development has the potential to adversely impact downstream agricultural resources.

AGP17: Agricultural Buffers – No agricultural buffers were recommended since the surrounding parcels are of a size that would not support production agriculture.

AGP24: Conversion of Agricultural Lands – This policy is intended to protect agricultural resources and discourage the conversion of agricultural lands to non-agricultural uses. The policy specifically states to “Avoid land redesignation (rezoning) that would create new rural residential development outside the urban and village reserve lines.

Several criteria have been developed to establish consistency with this goal as discussed below.

- Do not expand existing urban...areas until such areas are largely built-out, or until such time as additional land is needed to accommodate necessary uses or services that cannot be accommodated within the existing urban...area.

Staff Response: There are currently no plans to incorporate this area of the County into the City of San Luis Obispo limits and the proposal does not include the expansion of existing urban areas into agriculturally productive lands. Surrounding properties zoned agriculture won't necessarily pursue a similar conversion to Residential Rural designation due to the 10 acre minimum parcel size, limited number of homes allowed with the land use category, and the limitation of agricultural operations on smaller parcel sizes. It is not anticipated that the conversion of this property to Residential Rural will affect surrounding agricultural properties, nor will it result in an expansion of urban areas or higher density development into the neighborhood than what would already be allowed by the current land use category.

- The land does not meet the criteria for inclusion in the Agriculture land use category as agriculture production is not feasible due to some physical constraint (such as soil infertility, lack of water resource, disease), or surrounding incompatible land uses.

Staff Response: The proposal would result in the conversion of a 21.5-acre site consisting of capable soils restricted to residential uses. These soils can support a limited “hobby” livestock operation within the existing parcel size. Agricultural uses on small parcels have become an increasingly common occurrence and county policy (AGP4) supports agricultural uses on smaller agricultural parcels. However, small hobby livestock operations would still be limited by water availability, and potentially could still occur within the limited residential development that would be allowed following rezoning.

- Conversion to non-agricultural uses shall not adversely affect existing or potential agricultural production on surrounding lands that will remain designated Agriculture.

Staff Response: The potential for offsite incompatibilities associated with the proposal is not anticipated because of the limited agricultural potential (water availability, soil types, and steep slopes) of surrounding agricultural land. While a hobby livestock operation may be possible, with this size of a parcel and those surrounding, it isn't necessarily feasible. It is not anticipated that further land use conversion from agriculture to Residential Rural or similarly dense land use categories would have an adverse impact.

Agriculture Element Designation

The applicant has requested a General Plan Amendment to re-designate the land use designation in the Agriculture Element. The current designation is Agriculture, which corresponds to a LUE land use category of Agriculture. The applicant has requested to change

the designation to Small-Lot Rural, which applies within rural areas, outside of urban and village reserve lines. This designation would also maintain consistency with the applicant's request to change the land use category on the site from Agriculture to Residential Rural.

Conservation and Open Space Element Policies

The following Conservation and Open Space Element (COSE) Policies are applicable to the proposed amendment:

Policy OS 4.1 Define urban areas to prevent sprawl

Prevent urban sprawl by maintaining a well-defined boundary between urban/village boundaries and surrounding rural areas.

Policy OS 4.2 Maintain community separators

Maintain permanent separations between communities in order to retain the rural character of the county.

Policy OS 4.3 Conversion of rural areas to Urban Lands

Limit the conversion of unincorporated rural areas to Urban Lands in accordance with the considerations for urban and village expansion in Framework for Planning of the Land Use Element.

Policy OS 4.5 Maintain large parcels

Within urban and village reserve lines, maintain large parcels, preferably at least 10 acres in size, until such time as full urban services can be provided.

Policy OS 4.6 Conversion to small-lot rural parcels

To maintain a well-defined urban boundary, avoid the creation or expansion of Small-Lot Rural designations (Residential Rural/Suburban LUE land use categories) in rural areas.

Staff Response: The COSE policies regarding rural development generally discourage conversion of rural areas to urban land, specifically identifying new Residential Rural areas as a land use category to be avoided. The intention of these policies is to maintain separations between communities and prevent urban sprawl. In the subject case, future development on the site will be essentially the same with the amendment to Residential Rural, as a 10-acre minimum lot size will be maintained and water use restrictions exist for the property.

Strategic Growth

The Board of Supervisors recently adopted Ordinance 3176, amending the Framework for Planning to include strategic growth principles:

1. Preserve open space, scenic natural beauty, and sensitive environmental area. Conserve energy resources. Conserve agricultural resources and protect agricultural land.
2. Strengthen and direct development towards existing and strategically planned communities.
3. Foster distinctive, attractive communities with a strong sense of place.
4. Create walkable neighborhoods and towns.
5. Provide a variety of transportation choices.
6. Create a range of housing opportunities and choices.

7. Encourage mixed land uses.
8. Take advantage of compact building design.
9. Make development decisions predictable, fair, and cost effective.
10. Encourage community and stakeholder collaboration.
11. Strengthen regional cooperation.

The proposal will allow subdivision of a parcel, but will not affect the residential density. As such, the project is essentially neutral relative to the strategic growth principles.

One particular strategic growth principle that is in potential conflict with this project is Policy 2.2: “Avoid establishing or expanding Residential Rural and Residential Suburban areas outside of urban or village areas.” This proposal would introduce the Residential Rural category to an area outside of urban and village reserve lines.

This policy intends to avoid expanding residential development at suburban densities. Residential development at a lesser density is generally consistent with other smart growth principles that promote retaining rural areas in open space.

The Clean Air Plan also includes strategic growth policies, including one such policy which discourages the fracturing of rural lands by subdivision. This policy states that rural areas should be used for agriculture, open space, and very low density residential development (i.e. parcels of 20 acres or greater). The proposed project could result in subdivision of the site down to 2 parcels of approximately 10 acres each; however the project would not increase the density because any future subdivision would be limited to two parcels, which qualifies as low density development; and, any future development of the site would result in the same residential build-out as what would otherwise be allowed under the existing land use category.

Timing

The proposed category change from Agriculture to Residential Rural is not premature in relation to the inventory of similarly designated land because the proposed conversion is consistent with development in the immediate vicinity, and will not impair existing agricultural operations on larger agricultural properties able to sustain agriculturally productive uses (livestock operations and grazing.) Development is limited due to water availability and the planning area standards.

Vicinity

The project site is located at 1821 Tiburon Way, San Luis Obispo on the east side of Orcutt at the dead-end of Tiburon Way. The land use designation surrounding the property is a combination of Residential Suburban, Residential Rural, Rural Lands and Agriculture. Future subdivision or development of the project site would be consistent with the surrounding land use categories as the density of Residential Rural property is similar to surrounding properties (Residential Suburban, Rural Lands, and Agriculture).

Cumulative Effects of the Request

The Residential Rural land use category provides for a minimum parcel size of 5 acres. In order to reduce potential impacts from future development, the applicant further proposes the following restrictions:

- (1) Any future subdivision would be limited to two parcels; and

As indicated in the following table, the above restrictions would result in no net increase in residential development on the subject parcel. The site is presently developed with one unit (one primary) on the parcel. Future subdivision would be limited to the creation of two parcels, each with one primary unit and potential for one secondary unit (no guesthouses).

Development Feature	<i>Current:</i> Agriculture	Land Use Category	
		Residential Rural	<i>Proposed:</i> Residential Rural + Restrictions
Minimum Parcel Size	> 20 acres	5 acres	10 acres
Potential Parcels	2 parcel	3 parcels	2 parcels
Secondary Residences	Allowed	Allowed	1 per parcel
Potential Residential Units	4 units	6 units	4 units

Therefore, it is not anticipated that this amendment would induce further growth than what is otherwise allowed in this area.

ENVIRONMENTAL DETERMINATION

Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A Mitigated Negative Declaration was issued for this project on October 22, 2015.

The General Plan Amendment involves a land use category change; this action will not result in any physical change to the environment. However, the amendment would allow the applicant to divide the property into two parcels for individual sale. Future allowed development (two primary and two secondary dwellings) allowed by the amendment is not more intense than existing allowed development on the site. Additionally, to be consistent with County procedures and the County Open Space Element policies, any future subdivision or proposed development on the property should require submittal of a Biological Report to address potential impacts to those species and habitats identified by the environmental document. As such, a planning area standard is proposed (San Luis Obispo sub-area standards of the San Luis Obispo Planning Area) where at the time of application of a land division or development; a Biological report will be required to be submitted. The report would discuss impacts to those species and habitats discussed in the 'Settings' section of the environmental document.

AGENCY INVOLVEMENT

Agricultural Commissioner's Office:

The proposal is not opposed by the Agriculture Department. The Agriculture department identified concerns; however based on the information outlined within this staff report (water, agriculture compatibility) staff has determined that the conversion is consistent with Agriculture policies cited in the May 31, 2011 letter from Department of Agriculture.

City of San Luis Obispo

The City of San Luis Obispo commented as follows:

"The project location is subject to the following City Land Use Element policies: Policy 1.7.1 Open Space Protection, Policy 1.7.4 Parcel Sizes & Density, Policy 1.9.1 Basis for Variation. The following County Circulation and Open Space Element (COSE) policies apply: Policy OS 1.3 Supporting other agencies, Policy OS 1.8 Land Divisions and Development, Policy OS 4.6 Conversion to small-lot rural parcels, Policy OS 4.7 Cooperation with cities. City staff finds that the proposed GPA and map is not consistent with the policies noted above and in accordance with the MOU, should not be supported as proposed.

If the Board of Supervisors determines that the proposed GPA is consistent with the policies noted above and supports the change to Residential Rural, please consider the following conditions when reviewing the subsequent request to subdivide this parcel:

- The project will be subject to road impact fees for Orcutt Road. A calculation of these fees can be supplied from the City.
- The subdivision should include identification of limited building envelopes. A site plan and tentative grading plan should be evaluated along with any proposed subdivision.
- A viewshed analysis should be required to evaluate potential viewshed impacts from public roads.
- Open space easements should be secured to ensure that areas outside of building envelopes, including significant slopes, vegetation, or viewsheds are preserved.
- Development potential should be limited to one dwelling per lot without the ability to construct secondary dwellings or guesthouses.”

Afuerro de Chorro Mutual Water Company (the Company)

As of December 18, 2009, the Company has made a tentative determination that adequate water is available to serve all the currently allowed potential new dwellings units within its service area.

General Services

If the parcel does not already have an Avigation easement, it may require the establishment of an easement. Future construction will likely require review by the Federal Aviation Administration.

Responded with No Concerns:

- Air Pollution Control District (APCD)

No Response Received:

- Airport Land Use Commission

Attachments

1. Exhibit A - Findings
2. Exhibit B - LRP2010-00006:B - Proposed Land Use Category Map Changes
3. Exhibit C - LRP2010-00006:C - Proposed Land Use Ordinance Changes
4. Exhibit D - Graphics
5. Exhibit E - Guidelines for Land Use Category Amendments
6. Exhibit F - General Goals of the Land Use Element
7. Exhibit G - Purpose and Character Statements for Residential Rural
8. Exhibit H - Referrals
9. Exhibit I - Mitigated Negative Declaration

Staff report prepared by Megan Martin and reviewed by Brian Pedrotti and Steve McMasters.